

COMMISSIONERS APPROVAL

CHILCOTT

LUND *BL*

THOMPSON *AT*

TAYLOR (Clerk & Recorder)

Date.....May 12, 2006

Members Present.....Commissioner Greg Chilcott and  
Commissioner Betty Lund

Minutes: Glenda Wiles

Commissioner Alan Thompson was in Sacramento, California for a WIR Conference.

The Board met with County Attorney George Corn, Interim Planning Director Karen Hughes and Civil Counsel James McCubbin in regard to making comment to the legislative committee on the upcoming changes to Senate Joint Resolution #11 for changes in the growth plan bill. It was agreed that Karen and James would prepare an email to be sent by 4:00 p.m. today to the legislative committee.

In other business, County Attorney George Corn met with the Board in regard to the litigation brought forth by three environmentalist groups against the Forest Service on the East Fork Project. Also present was Forest Service Employee Nan Christianson, RC & D Representatives Kip Sutherland and Jim Freeman.

George stated he visited with a natural resource attorney out of Seattle by the name of Scott Horngren (Law firm of Haglund, Kelly, Horngren, Jones and Wilder, LLC), who is involved in other litigation representing the Forest Service. Scott estimates the cost to become involved at the preliminary injunction phase could range from \$8,000 to \$10,000. If the Judge grants the injunction, the project is stalled out and the Forest Service cannot move forward. If no injunction is granted, the Forest Service can move forward with the project. There is a 10-day appeal period, also. George stated usually there are not any settlements on these types of cases. Three issues of concern are noted in the law suit: 1) that the soil analysis was not adequately done by the Forest Service; 2) pre-decision activity by the crews in the forest (there is legal authority on marking the trees; and 3) public involvement argument that claims these people were not included in the process (George stated the plaintiffs submitted an analysis of their opinions).

George stated Scott is very objective, taking the political implications out of the case and simply reviews the facts. George stated the earlier the County enters the suit the better. However, there is no real deadline to intervene. He stated the County would have a

chance to argue at the injunction level and that argument should be centered on the importance of the public safety and health level for the residents in the area. George stated the financial consideration is important for the Commissioners. \$8,000-\$10,000 will get the County to the table and Scott Horngren would be the attorney representing the County. If the case moves forward beyond that to the Circuit Court of 9th Appeals, then it could cost up to \$20,000 on the County's behalf.

Kit Sutherland appreciates the Commissioners and George becoming involved in this issue. He stated they have contacted many people in regard to some funding for this litigation. Kit indicated he also visited with Scott Horngren and Scott stated he will send an email to George stating that if his law firm moves forward on this litigation, Ravalli County will not be held accountable for the costs to file for the intervener status. Kit stated if they need more funds, RC&D would solicit funds from others.

Commissioner Chilcott stated this is an important issue for the County, as it directly affects the health and safety of the residents of Ravalli County, particularly those that live in that area.

George stated one good item in the costs association with this is that the County cannot be responsible for the settlement.

Pat Cannell stated he serves on the Resource Advisory Committee. He felt one important issue is that this case is not 'run of the mill'. Under NEPA, this is the first case of its kind under the Healthy Forest Restoration Act (HFRA). Under HFRA, the "balance of harm" is a key deciding point in doing the project. This decision is the first of its kind and may become precedent. Secondly, after the fires of 2000 there were some expectations of fire salvage. This salvage was not done as expected because the monies went elsewhere. Those monies from the salvage are held in trust for specific locations.

Becky Linderman lives in the East Fork and thanked the Commissioners for taking this into consideration. The majority of the residents want this project implemented. She asked if they could recover the court costs against the plaintiffs for this.

Forest Service District Ranger Tracey Hollingsworth stated this is an important project and they are the first to have this type of a project litigated.

George suggested the Commissioners notice another public meeting in order to take full public comment because this meeting was not publicized for a full week, although it meets the 48-hour notice.

Commissioner Chilcott stated he does not want to delay the decision to enter into an intervener status. He stated it is important for the county to meet all of the statutory requirements in regard to the court filings and dates. George stated the Commissioners would not have any issues in regard to meeting the deadlines. But he agreed; 'the earlier the better'. This issue will be placed on the agenda for next Wednesday at 1:30 p.m.

In other business the Board met with Susan Key, Flood Plain Administrator Laura Hendrix and Interim Planning Director Karen Hughes for the signatures on the CARDD Grant, which is a Montana Renewable Resource Grant for stream locations. Commissioner Lund made a motion to approve the application for the Improved Resource Protection, Floodplain Hazard Mapping, and Landuse Planning for Ravalli County. Commissioner Chilcott seconded the motion and all voted "aye".

The Board made a walk-through at the First Interstate Center at the Fairgrounds.